

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2012-285

September 12, 2012

PUBLIC UTILITIES COMMISSION  
Repeal of Chapter 214  
Exemption of Telephone Utilities  
From Certain Filing and Approval Requirements

ORDER ADOPTING RULE  
AND STATEMENT OF FACTUAL  
AND POLICY BASIS

WELCH, Chairman, LITTELL and VANNOY, Commissioners

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## **I. SUMMARY**

Through this Order, we repeal Chapter 214 of the Commission's Rules (65-407 C.M.R. ch. 214), which exempts certain telephone utilities, with respect to specific services, from the tariffing and approval requirements of 35-A M.R.S.A. §§ 304, 307 and 310.<sup>1</sup>

## **II. BACKGROUND AND DECISION**

Chapter 214, adopted by the Commission on September 5, 2007, served as an interim step between comprehensive regulation of utility monopolies and the replacement of regulation by competitive market forces. Pursuant to 35-A M.R.S.A. § 304, public utilities, absent a specific exemption, are required to file tariffs with the Commission. These tariffs must include all rates, terms and conditions for the utility's services and are open to public inspection at the Commission and available for review on the Commission's web page. Additionally, Section 307 specifies that changes to a utility's tariff must be filed with the Commission and are subject to review and approval.

In recognition of changes within the telecommunications industry that have resulted in greater competition, in 1997 the Legislature enacted (and amended in 2001) 35 M.R.S.A. § 307-A, which authorized the Commission, after making certain findings regarding the presence and effect of competition in the market, to exempt certain utilities and/or services from tariff filing requirements and the related requirement that the Commission approve the tariffs. Chapter 214 was adopted by the Commission in 2007 to implement this Legislative grant of authority.

On April 12, 2012, the Legislature enacted P. L. 2012, ch. 623, An Act to Reform Telecommunications Regulation (the Act)(effective August 30, 2012). Among other changes, the Act repealed 35-A M.R.S.A. §307-A and exempted all telecommunications carriers, except those providing Provider of Last Resort (POLR) service, from the requirements of Title 35-A M.R.S.A. §§ 301-314 in their entirety. Accordingly, upon the effective date of the Act (August 30, 2012), the exemptions to filing requirements

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<sup>1</sup> This rule is a routine technical rule as defined in Title 5, chapter 375, subchapter II-A.

contained in Chapter 214 ceased to provide any meaningful purpose, and the primary statutory basis for the promulgation of Chapter 214 will no longer exist.

The Commission initiated a rulemaking in this document to propose the repeal of Chapter 214 on June 19, 2012. The Commission received no comments on this proposed repeal, nor any requests for public hearing. Accordingly, we repeal Chapter 214 as proposed in our Notice of Rulemaking.

Accordingly, we

### O R D E R

1. That Chapter 214 of the Commission's Rules (65-407 C.M.R. ch. 214) is hereby repealed:

2. That the Administrative Director shall file the repealed rule and related materials with the Secretary of State;

3. That the Administrative Director shall notify the following of the adoption of the amended rules:

- a. All Local Exchange Carriers in the State of Maine;
- b. The Telephone Association of Maine;
- c. All people who have filed with the Commission within the past year a written request for any Notice of Rulemaking

4. That the Administrative Director shall send copies of this Order and attached repealed rule to the Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine 04333-0115.

Dated at Augusta, Maine, this 10<sup>th</sup> day of September, 2012.

BY ORDER OF THE COMMISSION

/s/ Karen Geraghty  
Karen Geraghty  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Littell  
Vannoy

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.